

Bureau of Industry and Security, Commerce

§ 740.18

(i) Department of Commerce, Bureau of Industry and Security, Office of National Security and Technology Transfer Controls, 14th Street and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230, Attn: Encryption Reports, and

(ii) Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Ft. Meade, MD 20755-6000.

(f) *Restrictions.* Notwithstanding any language elsewhere in this section, License Exception ENC does not authorize:

(1) Any export or reexport of any “cryptanalytic item” to any “government end-user” (as that definition is applied to encryption items); or

(2) Any export or reexport of any “open cryptographic interface” item to any end-user not located in or headquartered in Canada or in countries listed in Supplement No. 3 part 740 of the EAR; or

(3) Any export or reexport to, or provision of any service in any country listed in Country Group E:1 in Supplement No. 1 to part 740 of the EAR; or

(4) Furnishing source code or technology to any national of a country listed in Country Group E:1.

[67 FR 38862, June 6, 2002, as amended at 68 FR 35785, June 17, 2003; 69 FR 71360, Dec. 9, 2004; 70 FR 22249, Apr. 29, 2005; 71 FR 52963, Sept. 7, 2006]

§ 740.18 Agricultural commodities (AGR).

(a) *Eligibility requirements.* License Exception AGR permits the export of agricultural commodities to Cuba, as well as the reexport of U.S. origin agricultural commodities to Cuba, provided your transaction meets *all* of the following criteria:

(1) The commodity meets the definition of “agricultural commodities” in part 772 of the EAR;

(2) The commodity is EAR99. You must have an official commodity classification of EAR99 from BIS for fertilizers, western red cedar and live horses before you submit a notification under this license exception. See § 748.3 of the EAR for information on how to submit a commodity classification request;

(3) The export or reexport is made pursuant to a written contract, except

for donations and commercial samples which are not subject to this contract requirement;

(4) The export or reexport is made within 12 months of the signing of the contract or within 12 months of notification that no objections were raised (if no contract is required). In the case of multiple partial shipments, all such shipments must be made within the 12 months of the signing of the contract or within 12 months of notification that no objections were raised (if no contract is required); and

(5) You notify BIS prior to exporting or reexporting according to the procedures set forth in paragraph (c) of this section. If you intend to engage in multiple shipments during the one-year period after the signing of the contract, you need only notify BIS prior to the first shipment.

(b) *Restrictions.* (1) No export or reexport to any individual or entity designated as a Specially Designated Terrorist or Foreign Terrorist Organization may be made under License Exception AGR (see part 744 of the EAR).

(2) No export or reexport to or for use in biological, chemical, nuclear warfare or missile proliferation activities may be made under License Exception AGR (see part 744 of the EAR).

(3) No U.S.-owned or controlled foreign firm may export from abroad to Cuba a foreign produced agricultural commodity containing more than 10% U.S.-origin content. Such U.S.-owned or controlled foreign firms require a specific license from BIS as well as the Department of the Treasury’s Office of Foreign Assets Control (OFAC). Transactions not subject to the EAR (under 10% U.S.-origin content) require a license from OFAC.

(c) *Prior notification*—(1) *General requirement.* You must notify BIS prior to any export or reexport (or prior to the first of multiple shipments) under License Exception AGR.

(2) *Procedures.* You must provide prior notification of exports and reexports under License Exception AGR by submitting a completed Multipurpose Application Form (BIS-748P) or its electronic equivalent. The following

blocks must be completed, as appropriate, on the Multipurpose Application Form: Blocks 1, 2, 3, 4, 5 (by marking box 5 “Other”), 14, 16, 17, 18, 19, 21, 22 (a), (e), (f), (g), (h), (i), (j), 23, and 25 according to the instructions described in Supplement No. 1 to part 748 of the EAR. If your commodity is fertilizer, western red cedar or live horses, you must confirm that BIS has previously classified your commodity as EAR99 by placing the Commodity Classification Automatic Tracking System (CCATS) number in block 22(d). BIS will not initiate the registration of an AGR notification unless all requested information on the Multipurpose Application form is complete.

(3) *Action by BIS.* Within two business days of the registration of the AGR notification, BIS will refer the notification for interagency review, or if necessary return the notification without action (e.g., if the information provided is incomplete). Registration is defined as the point at which the notification is entered into BIS’s electronic system.

(4) *Review by other departments or agencies.* The Departments of Defense, State, and other agencies, as appropriate, may review the AGR notification. BIS must receive department or agency objections within nine business days of the referral. Unlike the provisions described in § 750.4(b) of the EAR, there are no provisions for stopping the processing time of the AGR notification. If, within 11 business days after the date of registration, any reviewing agency provides a written objection that the recipient may promote international terrorism or the transaction raises nonproliferation concerns, you may not use License Exception AGR. In such cases, BIS will notify you that a license is required for the export or reexport. BIS will then process the AGR notification as a license application in accordance with the provisions described in § 750.4 of the EAR, and the licensing policies set forth in the EAR. At this time, BIS may request additional information. When BIS confirms that no agency has raised an objection within eleven business days (as described in paragraph (c)(5) of this section), you may proceed with the transaction provided that you satisfy all

other requirements of License Exception AGR, including the requirement to have a written contract prior to any shipment (unless a donation or commercial sample). (Note that the fact that you have been advised that no agency has objected to the transaction does not exempt you from other licensing requirements under the EAR, such as those based on knowledge of a prohibited end-use or end-user as referenced in general prohibition five (part 736 of the EAR) and set forth in part 744 of the EAR.)

(5) *Status of pending AGR notification requests.* You must contact BIS’s System for Tracking Export License Applications (“STELA”) at (202) 482-2752 for status of your pending AGR notification. (See § 750.5 of the EAR for procedures to access information on STELA.) STELA will provide the date of registration of the AGR notification. If no department or agency objection is raised within 11 business days, STELA will, on the twelfth business day following the date of registration, provide you with confirmation of that fact. You may not proceed with your shipment unless you confirm with STELA that no objection has been raised. BIS will subsequently issue written confirmation to you. If an objection is raised, STELA will indicate that a license is required. The AGR notification will then be processed as a license application. In addition, BIS may provide notice of an objection by telephone, fax, courier service, or other means.

(d) *Donations.* (1) Donations of agricultural commodities are eligible for export and reexport to Cuba under License Exception AGR, provided the transaction meets the requirements and procedures of this license exception (except the written contract requirement).

(2) Donations of food items to non-governmental organizations (NGOs) and individuals in Cuba may also be eligible for License Exception GFT. See § 740.12 for eligibility requirements of gift parcels and humanitarian donations under License Exception GFT.

[66 FR 36681, July 12, 2001]

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**SUPPLEMENT NO. 1 TO PART 740—
COUNTRY GROUPS**

COUNTRY GROUP A

Country	[A:1]	[A:2] Missile tech- nology control regime	[A:3] Australia group	[A:4] Nuclear sup- pliers group
Argentina		X	X	X
Australia	X	X	X	X
Austria ¹		X	X	X
Belarus				X
Belgium	X	X	X	X
Brazil		X		X
Bulgaria		X	X	X
Canada	X	X	X	X
Cyprus			X	X
Czech Republic		X	X	X
Denmark	X	X	X	X
Estonia			X	
Finland ¹		X	X	X
France	X	X	X	X
Germany	X	X	X	X
Greece	X	X	X	X
Hong Kong ¹				
Hungary		X	X	X
Iceland		X	X	
Ireland ¹		X	X	X
Italy	X	X	X	X
Japan	X	X	X	X
Kazakhstan				X
Korea, South ¹		X	X	X
Latvia			X	X
Lithuania			X	
Luxembourg	X	X	X	X
Malta			X	
Netherlands	X	X	X	X
New Zealand ¹		X	X	X
Norway	X	X	X	X
Poland		X	X	X
Portugal	X	X	X	X
Romania			X	X
Russia		X		X
Slovakia			X	X
Slovenia			X	X
South Africa		X		X
Spain	X	X	X	X
Sweden ¹		X	X	X
Switzerland ¹		X	X	X
Turkey	X	X	X	X
Ukraine		X	X	X
United Kingdom	X	X	X	X
United States	X	X	X	X

¹ Cooperating Countries.

COUNTRY GROUP B—COUNTRIES

Afghanistan	Barbados
Algeria	Belgium
Andorra	Belize
Angola	Benin
Antigua and Barbuda	Bhutan
Argentina	Bolivia
Aruba	Bosnia &
Australia	Herzegovina
Austria	Botswana
The Bahamas	Brazil
Bahrain	Brunei
Bangladesh	Bulgaria

Burkina Faso	Liberia
Burma	Liechtenstein
Burundi	Lithuania
Cameroon	Luxembourg
Canada	Macedonia, The
Cape Verde	Former
Central African	Yugoslav Republic
Republic	of
Chad	Madagascar
Chile	Malawi
Colombia	Malaysia
Comoros	Maldives
Congo (Democratic	Mali
Republic of the)	Malta
Congo (Republic of	Marshall Islands
the)	Mauritania
Costa Rica	Mauritius
Cote d'Ivoire	Mexico
Croatia	Micronesia,
Cyprus	Federated
Czech Republic	States of
Denmark	Monaco
Djibouti	Montenegro
Dominica	Morocco
Dominican Republic	Mozambique
East Timor	Namibia
Ecuador	Nauru
Egypt	Nepal
El Salvador	Netherlands Antilles
Equatorial Guinea	Netherlands
Eritrea	New Zealand
Estonia	Nicaragua
Ethiopia	Niger
Fiji	Nigeria
Finland	Norway
France	Oman
Gabon	Pakistan
Gambia, The	Palau
Germany	Panama
Ghana	Papua New Guinea
Greece	Paraguay
Grenada	Peru
Guatemala	Philippines
Guinea	Poland
Guinea-Bissau	Portugal
Guyana	Qatar
Haiti	Romania
Honduras	Rwanda
Hong Kong	Saint Kitts & Nevis
Hungary	Saint Lucia
Iceland	Saint Vincent and
India	the Grenadines
Indonesia	Samoa
Ireland	San Marino
Israel	Sao Tome & Principe
Italy	Saudi Arabia
Jamaica	Senegal
Japan	Serbia
Jordan	Seychelles
Kenya	Sierra Leone
Kiribati	Singapore
Korea, South	Slovakia
Kuwait	Slovenia
Latvia	Solomon Islands
Lebanon	Somalia
Lesotho	South Africa

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Spain	Tuvalu
Sri Lanka	Uganda
Surinam	United Arab Emirates
Swaziland	United Kingdom
Sweden	United States
Switzerland	Uruguay
Taiwan	Vanuatu
Tanzania	Vatican City
Thailand	Venezuela
Togo	Western Sahara
Tonga	Yemen
Trinidad & Tobago	Zambia
Tunisia	Zimbabwe
Turkey	

COUNTRY GROUP C [RESERVED]

COUNTRY GROUP D

Country	[D: 1] National Security	[D: 2] Nu- clear	[D: 3] Chem- ical & Biologi- cal	[D: 4] Missile Tech- nology
Afghanistan			X	
Albania	X			
Algeria				
Andorra				
Armenia	X		X	
Azerbaijan	X		X	
Bahrain			X	X
Belarus	X		X	
Burma			X	
Cambodia	X			
China (PRC)	X		X	X
Comoros				
Cuba		X	X	
Djibouti				
Egypt			X	X
Georgia	X		X	
India		X	X	X
Iran		X	X	X
Iraq	X	X	X	X
Israel		X	X	X
Jordan			X	X
Kazakhstan	X		X	
Korea, North		X	X	X
Kuwait			X	X
Kyrgyzstan	X		X	
Laos	X			
Lebanon			X	X
Libya	X	X	X	X
Macau	X		X	X
Micronesia, Federated States of				
Moldova	X		X	
Mongolia	X		X	
Oman			X	X
Pakistan		X	X	X
Qatar			X	X
Russia	X		X	
Saudi Arabia			X	X
Syria			X	X
Taiwan			X	
Tajikistan	X		X	
Turkmenistan	X		X	
Ukraine	X			
United Arab Emirates			X	X
Uzbekistan	X		X	
Vanuatu				
Vietnam	X		X	
Yemen			X	X

COUNTRY GROUP E ¹

Country	[E:1] Terrorist supporting countries ²	[E:2] Unilateral embargo
Cuba	X	X
Iran	X	
Korea, North	X	
Sudan	X	
Syria	X	

¹In addition to the controls maintained by the Bureau of Industry and Security pursuant to the EAR, note that the Department of the Treasury administers:

(a) A comprehensive embargo against Cuba, Iran, and Sudan; and

(b) An embargo against certain persons, e.g., Specially Designated Terrorists (SDT), Foreign Terrorist Organizations (FTO), Specially Designated Global Terrorists (SDGT), and Specially Designated Narcotics Traffickers (SDNT). Please see part 744 of the EAR for controls maintained by the Bureau of Industry and Security on these and other persons.

²The President made inapplicable with respect to Iraq provisions of law that apply to countries that have supported terrorism.

[61 FR 12768, Mar. 25, 1996, as amended at 62 FR 6686, Feb. 12, 1997; 62 FR 25458, May 9, 1997; 62 FR 42048, Aug. 5, 1997; 63 FR 37769, July 14, 1998; 64 FR 28908, May 28, 1999; 65 FR 38151, June 19, 2000; 66 FR 18402, Apr. 9, 2001; 66 FR 42110, Aug. 10, 2001; 66 FR 49524, Sept. 28, 2001; 67 FR 37982, May 31, 2002; 67 FR 55598, Aug. 29, 2002; 68 FR 16146, Apr. 2, 2003; 68 FR 60289, Oct. 22, 2003; 69 FR 3005, Jan. 22, 2004; 69 FR 21056, Apr. 20, 2004; 69 FR 23628, Apr. 29, 2004; 69 FR 46075, July 30, 2004; 69 FR 64658, Nov. 8, 2004; 69 FR 77893, Dec. 29, 2004; 70 FR 11861, Mar. 10, 2005; 70 FR 45280, Aug. 5, 2005; 70 FR 67348, Nov. 7, 2005; 71 FR 51717, Aug. 31, 2006; 71 FR 68439, Nov. 27, 2006]

SUPPLEMENT NO. 2 TO PART 740—ITEMS THAT MAY BE DONATED TO MEET BASIC HUMAN NEEDS UNDER THE HUMANITARIAN LICENSE EXCEPTION

(a) Health

Equipment for the Handicapped
Hospital Supplies and Equipment
Laboratory Supplies and Equipment
Medical Supplies and Devices
Medicine-Processing Equipment
Medicines
Vitamins
Water Resources Equipment
Food
Agricultural Materials and Machinery Suited to Small-Scale Farming Operations
Agricultural Research and Testing Equipment
Fertilizers
Fishing Equipment and Supplies Suited to Small-Scale Fishing Operations

(b) Food

Insecticides
Pesticides
Seeds
Small-Scale Irrigation Equipment
Veterinary Medicines and Supplies

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(c) *Clothes and Household Goods*

Bedding
Clothes
Cooking Utensils
Fabric
Personal Hygiene Items
Soap-Making Equipment
Weaving and Sewing Equipment

(d) *Shelter*

Building Materials
Hand Tools

(e) *Education*

Books
Individual School Supplies
School Furniture
Special Education Supplies and Equipment for the Handicapped

(f) *Basic Support Equipment and Supplies Necessary To Operate and Administer the Donative Program*

Audio-Visual Aids for Training
Generators
Office Supplies and Equipment

SUPPLEMENT NO. 3 TO PART 740—COUNTRIES ELIGIBLE FOR THE PROVISIONS OF § 740.17(a)

Austria	Latvia
Australia	Lithuania
Belgium	Luxembourg
Cyprus	Malta
Czech Republic	Netherlands
Estonia	New Zealand
Denmark	Norway
Finland	Poland
France	Portugal
Germany	Slovakia
Greece	Slovenia
Hungary	Spain
Ireland	Sweden
Italy	Switzerland
Japan	United Kingdom

[69 FR 71363, Dec. 9, 2004]

PART 742—CONTROL POLICY—CCL BASED CONTROLS

Sec.

742.1 Introduction.

742.2 Proliferation of chemical and biological weapons.

742.3 Nuclear nonproliferation.

742.4 National security.

742.5 Missile technology.

742.6 Regional stability.

742.7 Crime control.

742.8 Anti-terrorism: Iran.

742.9 Anti-terrorism: Syria.

742.10 Anti-terrorism: Sudan.

742.11 Specially designed implements of torture.

742.12 [Reserved]

742.13 Communications intercepting devices.

742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.

742.15 Encryption items.

742.16 [Reserved]

742.17 Exports of firearms to OAS member countries.

742.18 Chemical Weapons Convention (CWC or Convention).

742.19 Anti-terrorism: North Korea.

SUPPLEMENT NO. 1 TO PART 742—NON-PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SUPPLEMENT NO. 2 TO PART 742—ANTI-TERRORISM CONTROLS: IRAN, LIBYA, NORTH KOREA, SYRIA AND SUDAN CONTRACT SANCTITY DATES AND RELATED POLICIES

SUPPLEMENT NO. 3 TO PART 742 [RESERVED]

SUPPLEMENT NO. 4 TO PART 742—KEY ESCROW OR KEY RECOVERY PRODUCTS CRITERIA

SUPPLEMENT NO. 5 TO PART 742—CHECKLIST ON ENCRYPTION AND OTHER “INFORMATION SECURITY” FUNCTIONS

SUPPLEMENT NO. 6 TO PART 742—GUIDELINES FOR SUBMITTING REVIEW REQUESTS FOR ENCRYPTION ITEMS

SUPPLEMENT NO. 7 TO PART 742 [RESERVED]

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of October 27, 2006, 71 FR 64109 (October 31, 2006).

SOURCE: 61 FR 12786, Mar. 25, 1996, unless otherwise noted.

§ 742.1 Introduction.

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C.

(a) *Scope.* This part describes all the reasons for control reflected in the Country Chart in Supplement No. 1 to part 738 of the EAR. In addition, it includes licensing requirements and licensing policies for the following items that are not reflected on the Country Chart: specially designed implements